

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 838 Session of 2013

INTRODUCED BY ALLOWAY AND SOLOBAY, MAY 6, 2013

REFERRED TO COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
MAY 6, 2013

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled,
2 as amended, "An act relating to counties of the first, third,
3 fourth, fifth, sixth, seventh and eighth classes; amending,
4 revising, consolidating and changing the laws relating
5 thereto; relating to imposition of excise taxes by counties,
6 including authorizing imposition of an excise tax on the
7 rental of motor vehicles by counties of the first class; and
8 providing for regional renaissance initiatives," in fiscal
9 affairs, providing for authorization of five percent hotel
10 tax in certain counties of the fourth class.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The act of August 9, 1955 (P.L.323, No.130),
14 known as The County Code, is amended by adding a section to
15 read:

16 Section 1773. Authorization of Five Per Centum Hotel Tax.--

17 (a) The county commissioners of any county of the fourth class
18 having a population under the 2010 Federal decennial census in
19 excess of 145,000 residents, but less than 209,999 residents,
20 may impose a hotel tax not to exceed five per centum of the
21 consideration received by each operator of a hotel within the
22 county from each transaction of renting a room or rooms to

1 transients. The tax shall be collected by the operator from the
2 patron of the room or rooms and paid over to the county as
3 herein provided.

4 (b) The provisions of subsection (c) notwithstanding, county
5 commissioners may by ordinance impose requirements for keeping
6 of records, the filing of tax returns and the time and manner of
7 collection and payment of tax. The county commissioners may also
8 impose by ordinance penalties and interest for failure to comply
9 with recordkeeping, filing, collection and payment requirements.

10 (c) Each operator of a hotel within a county that imposes
11 the tax authorized under this section shall submit to an audit
12 of hotel tax revenue. The audit shall be conducted by the county
13 commissioners and shall consist, at a minimum, of determining
14 the total amount of consideration received by the operator from
15 transactions of renting a room or rooms to transients during the
16 period being audited and the total amount of hotel tax revenue
17 collected. The county commissioners or their duly authorized
18 agents shall conduct at least one audit annually and shall bear
19 the costs of the audit.

20 (d) The treasurer of each county that imposes the tax
21 authorized under this section shall collect the tax and deposit
22 the revenues received from the tax in a special fund established
23 for that purpose. Subject to the deduction of the administrative
24 fee authorized by subsection (h), the disposition of the
25 revenues from the TPA hotel tax fund shall be as follows:

26 (1) Seventy-five per centum of all revenues received per
27 annum shall be used by the county's recognized TPA for the
28 promotion, advertising and marketing of tourism and special
29 events and for administrative costs.

30 (2) Twenty-five per centum of all revenues received per

1 annum shall be distributed as follows:

2 (i) Fifty per centum shall be used by the county
3 commissioners for the purposes of economic development, historic
4 preservation and the arts.

5 (ii) Fifty per centum shall be used by the county
6 commissioners for grants to municipalities that:

7 (A) have a municipal police department employing at least
8 two full-time police officers assigned to law enforcement duties
9 who work a minimum of two hundred days per year; or

10 (B) are a member of a regional police department that
11 provides full-time police services to the municipality pursuant
12 to an agreement or contract.

13 (iii) Municipalities receiving grants under subclause (ii)
14 must meet or have met the eligibility requirements under
15 subclause (ii) (A) or (B) for a minimum of two years prior to
16 receiving the grant.

17 (e) Grants under subsection (d) (2) (ii) shall be distributed
18 to municipalities in proportion to the number of hotel rooms
19 within the municipality as a percentage of the total number of
20 hotel rooms in municipalities with police departments under
21 subsection (d) (2) (ii) as compiled by the recognized TPA and
22 certified by the county commissioners. Grants shall be used for
23 police and law enforcement purposes. Any portion of a grant not
24 used for police and law enforcement purposes shall be returned
25 to the county for the purposes of subsection (d) (2) (i).

26 (f) The tax year for a tax imposed under this section shall
27 run concurrently with the calendar year.

28 (g) An audited report on the income and expenditures
29 incurred by a tourist promotion agency receiving any revenues
30 from the tax authorized under this section shall be submitted

1 annually by the tourist promotion agency to the county
2 commissioners.

3 (h) The county may deduct and retain an administrative fee
4 from the taxes collected under this section. The administrative
5 fee established by the county may not exceed in any tax year the
6 lesser of:

7 (1) four and one-half per centum of all taxes collected
8 under this section; or

9 (2) ninety-five thousand dollars (\$95,000), which amount
10 shall be adjusted biannually, beginning two years after the
11 effective date of this subsection, by the percentage growth in
12 the Consumer Price Index for All Urban Consumers.

13 (i) Revenue collected from the fee imposed under subsection
14 (h) shall be used for the following purposes:

15 (1) Defraying the costs associated with the collection and
16 administration of the tax.

17 (2) Defraying the costs of the review required under
18 subsection (c).

19 (j) As used in this section, the following words and phrases
20 shall have the meanings given to them in this subsection:

21 "Consideration." Receipts, fees, charges, rentals, leases,
22 cash, credits, property of any kind or nature, or other payment
23 received by operators in exchange for or in consideration of the
24 use or occupancy by a transient of a room or rooms in a hotel
25 for any temporary period.

26 "Hotel." A hotel, motel, inn, guest house or other structure
27 which holds itself out by any means, including advertising,
28 license, registration with an innkeepers' group, convention
29 listing association, travel publication or similar association
30 or with a government agency, as being available to provide

1 overnight lodging or use of facility space for consideration to
2 persons seeking temporary accommodation; any place which
3 advertises to the public at large or any segment thereof that it
4 will provide beds, sanitary facilities or other space for a
5 temporary period to members of the public at large; or any place
6 recognized as a hostelry. The term does not include any portion
7 of a facility that is devoted to persons who have an established
8 permanent residence or a college or university student residence
9 hall.

10 "Occupancy." The use or possession or the right to the use
11 or possession by any person other than a permanent resident of
12 any room in a hotel for any purpose or the right to the use or
13 possession of the furnishings or to the services accompanying
14 the use and possession of the room.

15 "Operator." An individual, partnership, nonprofit or profit-
16 making association or corporation or other person or group of
17 persons who maintain, operate, manage, own, have custody of or
18 otherwise possess the right to rent or lease overnight
19 accommodations in a hotel to the public for consideration.

20 "Patron." A person who pays the consideration for the
21 occupancy of a room or rooms in a hotel.

22 "Permanent resident." A person who has occupied or has the
23 right to occupancy of a room or rooms in a hotel as a patron or
24 otherwise for a period exceeding thirty consecutive days.

25 "Room." A space in a hotel set aside for use and occupancy
26 by patrons, or otherwise, for consideration, having at least one
27 bed or other sleeping accommodation in a room or group of rooms.

28 "Tourist Promotion Agency (TPA)." An organization, agency or
29 corporation designated to be such by the board of commissioners
30 as of January 1, 2000, of the county in which the tax is

1 imposed. The TPA shall be duly established, designated and
2 recognized as the county's TPA in accordance with and pursuant
3 to the act of July 4, 2008 (P.L.621, No.50), known as the
4 "Tourism Promotion Act."

5 "Transaction." The activity involving the obtaining by a
6 transient or patron of the use or occupancy of a hotel room from
7 which consideration is payable to the operator under an express
8 or an implied contract.

9 "Transient." An individual who obtains accommodation in a
10 hotel by means of registering at the facility for the temporary
11 occupancy of a room for the personal use of the individual by
12 paying a fee to the operator.

13 Section 2. This act shall take effect immediately.